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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,111	09/16/2003	Dolores Schendel	1406/468	6128
25297 7590 01/04/2011 JENKINS, WILSON, TAYLOR & HUNT, P. A. 3100 Tower Blvd. Suite 1200 DURHAM, NC 27707				
EXAMINER				
CANELLA, KAREN A				
ART UNIT		PAPER NUMBER		
1643				
MAIL DATE		DELIVERY MODE		
01/04/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/665,111

**Applicant(s)**

SCHENDEL ET AL.

**Examiner**

Karen A. Canella

**Art Unit**

1643

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-26, 33-42, 44-47 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23, 25, 26, 33-35, 38-40, 44, 47 and 49 is/are rejected.
- 7) ☒ Claim(s) 24, 36, 37, 41, 45 and 46 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

### **DETAILED ACTION**

Claims 27-32, 43 and 48 have been canceled. Claims 23-26, 33-42, 44-47 and 49 are pending and under consideration.

After review and reconsideration, the finality of the Office action of August 31, 2010 is withdrawn in favor of the rejections below.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 47 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how claims 47 and 49 further limit the scope of claims 23 and 33, because the semi-allogeneic antigen-presenting cell will inherently have a HLA-haplotype that is 50% identical to that of the patient.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23, 25, 26, 33-35, 38-40, 44, 47 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Rhode et al (U.S. 5,869,270)

Rhode et al disclose a method wherein host compatible antigen presenting cells which are haploidentical cells having the same haplotype as that of the subject (column 21, lines 46-54) are transfected with polynucleotides encoding MHC fusion proteins (abstract) . Rhodes et al disclose cDNA as a source of proteins or peptides of tumor cells (column 17, lines 19-21) which meets the limitation of proteins and/or peptides over expressed in tumor cells.. Rhodes et al disclose that antigen-presenting cells of the invention include dendritic cells (Example 16). Rhodes et al disclose that the invention provides for invoking an immune response in a mammal against a targeted disorder, such as cancer and in particular melanoma (column 23, lines 49-53). The disclosure of Rhodes et al fulfill the specific embodiments of a semi-allogeneic antigen presenting cells because an antigen presenting cell which is haploidentical includes semi-allogeneic antigen presenting cells which inherently possess one syngeneic HLA allele and one allogeneic HLA allele. Thus the disclosure of Rhodes et al fulfills the requirements of claims 47 and 49 regarding an HLA-haplotype that is 50% identical to that of the patient.

Claims 24, 36, 37, 41, 45 and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

All other rejections and objections as set forth or maintained in the prior Office action are withdrawn in light of applicant's amendments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen A. Canella whose telephone number is (571)272-0828. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Misook Yu can be reached on (571)272-0839. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karen A Canella/  
Primary Examiner, Art Unit 1643